IN THE HIGH COURT OF JHARKHAND AT RANCHI
Criminal Appeal (SJ) No. 192 of 2017

Md. Samiuddin Ansari @ Samsuddin Ansari, son of Late Kadam Rasul Mian, resident of Village Pandaniya, P.O.-Kusmaha, P.S.-Margomunda, District Deoghar

..... Appellant

Versus

The State of Jharkhand **.....Respondent**

For the Appellant :Mr. Sudhansu Kumar Deo, Advocate
For the State :Mr. Sunil Kumar Dubey, A.P.P.

PRESENT
HON'BLE MR. JUSTICE ARUN KUMAR RAI

J U D G M E N T

C.A.V. on 16.01.2026 **Pronounced on: 21.09.2026**

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1. Heard Mr. Sudhansu Kumar Deo, learned counsel appearing for the appellant/convict and Mr. Sunil Kumar Dubey, learned A.P.P for the State.

2. The instant appeal is being preferred against the judgment of conviction dated 10.01.2017 and order of sentence dated 12.01.2017 passed by the learned 2nd Additional Sessions Judge-cum-Fast Track Court (Rape Cases), Deoghar in Sessions Trial No. 258 of 2011, whereby and whereunder the learned trial court has convicted the appellant under Sections 307, 379 and 323 of IPC and sentenced him to undergo R.I. for a period of 7 years and with a fine of Rs. 5,000/- under Section 307 of IPC and under Section 379 of IPC sentenced to undergo R.I. for 1 year and Section 323 of IPC being petty offence, thus no

separate sentence was imposed. Further, in default of payment of fine directed to undergo S.I for further 3 months and both the sentences shall run concurrently.

3. In the present case, F.I.R. was registered on the basis of written application dated 26.06.2011 submitted by the informant, namely, Sushant Dey. He stated therein that he was running a shop selling sweets and breakfast, near old Chihutia mode. He further stated that on the preceding day i.e. 25.06.2011 at noon, Samsuddin Mian @ Sama, S/o of Kadam Rasul, resident of Pandaniya P.S. Karon, District Deoghar came to his shop and had breakfast worth Rs. 22/- and when the informant demanded the payment of the said amount, he told the informant that he used to have breakfast free of cost, thereafter without making the said payment for the breakfast, he went away from the shop by extending threat to the informant that he would teach him a lesson in the evening.

4. It is further alleged that, in the evening at about 07:30 P.M. while the informant was at his shop and some customers were having breakfast, the aforesaid Samsuddin Mian @ Sama came there and started abusing him. He then caught hold of informant's wrist. When the informant objected to the abuse and tried to free himself, then Samsuddin Mian @ Sama took out a knife from his waist and gave a knife blow upon him. The informant tried to evade the blow, however, he sustained knife injury above his right knee from blood started oozing and when second knife blow was given, it struck the informant on his head. On the informant raising an alarm, his brother Prashant Dey and his nephew Suman Kumar Dey came there and they too sustained injuries.

5. It is alleged that informant's brother sustained an injury on the palm of his right hand, whereas the informant's nephew Suman Kumar Dey sustained injuries to the finger of his left hand and on his right elbow. It is further alleged by the informant that the aforesaid incident took place when he demanded Rs. 22/- from Samsuddin Mian @ Sama for the breakfast. It is further alleged that, with an intention to kill the informant, Samsuddin Mian @ Sama gave a knife blow to him. During the night he has also broken earthen stove and also took away money from the galla (money box) and also threw refined oil tin. The incident was witnessed by Harihar Mandal, Suresh Mandal and Arun Kumar Dey.

6. Upon aforesaid written application, F.I.R., being Karon P.S. Case No. 48/2011 dated 26.06.2011 was registered under Sections 341, 323, 324, 307, 379, 427 and 504 of IPC. After due investigation, charge-sheet was submitted against the accused/convict and the learned Magistrate took cognizance of the offence and thereafter, the case was committed to the Court of Sessions, where it was registered as Sessions Trial No. 258 of 2011. Record reveals that charges under Sections 323, 307 and 379 of IPC were framed against the accused and the same were read over and explained to the accused in Hindi, to which he denied the same and claimed to be tried.

7. In order to prove its case, the prosecution has examined 07 witnesses in the present case. However, no witness has been examined on behalf of the defence. The statement of the accused under Section 313 Cr.P.C. was recorded, wherein he has simply denied the allegations put to him.

8. The learned trial court, after considering the evidences available on record, convicted the accused under Sections 379, 307 & 323 of IPC and sentenced him to undergo R.I. for a period of 07 years and with a fine of Rs. 5,000/- under Section 307 of IPC and under Section 379 of IPC sentenced to undergo R.I. for 1 year and Section 323 of IPC being petty offence, thus no separate sentence was imposed. Further, in default of payment of fine directed to undergo S.I for further 3 months. Being aggrieved by the aforesaid judgment of conviction and order of sentence, the present appeal has been preferred by the appellant/convict.

9. Learned counsel for the appellant/convict vehemently argued that, in the present case, I.O. has not been examined and no knife has been recovered. As such, the appellant is entitled to acquittal on these grounds alone. He also pointed out the testimonies of P.W. 1 and P.W. 2 and submitted that both these witnesses reached the alleged place of occurrence i.e. the shop of the informant, only after the informant had fallen to the ground with injuries. Therefore, these two witnesses cannot and should not be treated as eye witnesses to the occurrence. It was thus, submitted that the only evidence regarding the commission of the alleged offence by the appellant/convict is the testimony of informant (P.W.-6). Learned counsel contended that the version of the incident narrated by the P.W.-6 cannot and should not be relied upon by this Appellate Court.

10. In the alternative, learned counsel drew the attention of this Court to the testimony of P.W.-7, the doctor, who examined the injured as well as testimony of

the informant P.W.-6 and submitted that, by no stretch of imagination, are the ingredients of Section 307 of IPC made out in the present case. At the most, the case would fall within the ambit of Section 324 of IPC and considering the age of the litigation in the present case, the sentence imposed upon the accused may be modified to the period already undergone.

11. Per contra, learned A.P.P. for the State submitted that, in the present case, three injured witnesses have been examined before the learned trial court and there are only minor contradictions in their testimonies, which lend assurance to the fact that they are natural witnesses and have not been tutored. It was further submitted that nothing has been brought on record on behalf of the accused during cross-examination of any of the injured witnesses which could render the case of prosecution improbable. The versions of the informant, as well as other two injured witnesses stand duly corroborated by the testimony of doctor (P.W.-7). On the aforesaid premise, submission has been made that no interference by this Appellate Court is warranted with the finding arrived at by the learned trial court.

12. Heard the counsel for the parties and perused the materials on record.

13. In order to prove its case, the prosecution has examined as many as seven witnesses namely, P.W.-1 Suman Kumar Dey , P.W.-2 Prashant Dey, P.W.-3 Harihar Mandal, P.W.-4 Suresh Mandal, P.W.-5 Abid Hussain, P.W.-6 Sushant Dey (informant) and P.W.-7 Dr. Arun Kumar Gupta and apart from the oral evidence of the witnesses, the prosecution has also proved some

documentary evidences, these are as Exhibit-P.W.-6/A-written application, Exhibit- P.W.-7/A-Injury report of Suman Kumar, Exhibit- P.W.-7/B- Injury Report of Prashant Kumar Dey, Exhibit- P.W.-7/C Injury Report of Sushant Dey and the X-Ray plate which has been marked as 'X'.

14. The informant of the present case has been examined as P.W.-6. He deposed in his testimony that, incident took place on 25.06.2011 and at 07:30 P.M. in the evening, when the accused Samsuddin Mian @ Sama came to his shop and started abusing him. He further stated that, on the same day at noon, Samsuddin Mian @ Sama had taken breakfast at his shop for Rs. 22/- but did not make payment despite being asked to do so and after extending threats left the shop. It is further stated by the informant that the accused caught hold of his wrist and when he tried to free himself, Samsuddin Mian @ Sama took out a knife from his waist and gave a knife blow to him. When the informant tried to save himself, then knife struck his thigh above the knee causing an injury from which blood started oozing. The accused thereafter gave second knife blow on his head. The informant raised an alarm, upon which, his brother Prashant Dey P.W.-2 who had a shop nearby, and his nephew Suman Kumar Dey P.W.-1 came there and tried to rescue him. The accused also assaulted them. Prashant sustained knife injury on the palm of his right hand while Suman sustained injury to the finger of his left hand and his right elbow. It is further stated that there was some money in the galla (money box) though the money was not counted, so the informant could not ascertain the exact amount. According to him, it was approximately rupees two

thousands, which was taken away by the accused. He further stated that the accused also threw refined oil tin. After the incident, the informant alongwith others went to the police station, but as the Officer-in-charge was not present, they returned. On the following day at about 10:00 -10:30 A.M., they again went to the police station where the informant submitted a written application, which has been marked as Ext.-6/A.

In his cross-examination, he has stated that the accused had previously visited his shop on several occasions and used to visit it frequently. He further stated that he was acquainted with the name of the accused's father prior to this incident. The suggestion was put to him on behalf of the accused that the accused had neither given a knife blow to the informant nor assaulted him and no such incident as alleged by the informant had taken place. It was further suggested that after having breakfast at the informant's shop in the noon the accused had paid Rs. 100/- note, but the informant did not return the balance amount and, when the accused demanded the same the informant created a commotion.

15. P.W.-2, Prashant Dey is the brother of the informant. He has deposed that, upon hearing the commotion, he came to the place of occurrence and saw the accused assaulting the informant with a knife, when he intervened he sustained injuries on the finger of his right hand and the accused also took money from the galla (money box) and also threw refined oil tin. He further stated that the accused broke the *chulha* (earthen stove).

In his cross-examination, a suggestion was put to this witness that, when he reached at the place of

occurrence, the accused was stating that he had paid a large amount of money and the informant should return the remaining amount after deducting Rs. 22/-. He admitted that he had not himself seen galla. In para-23 of his cross-examination, he stated that, when he reached the place of occurrence, he saw blood was oozing from his brother as well as from his son who had sustained injuries on his knee and hand.

16. P.W.-1, Suman Kumar Dey, is the nephew of the informant (P.W-6) and son of Prashant Dey (P.W.-2). He has deposed that, upon hearing commotion he went to the shop of his uncle, Sushant Kumar Dey. There, he saw Samsuddin Mian @ Sama assaulting his uncle Sushant Dey and giving him a knife blow on his leg as a result of which, blood started oozing from the injury. When he intervened to save his uncle, Samsuddin Mian @ Sama gave him knife blow on the elbow of his right hand and finger of his left hand, causing injuries to him. He further stated that thereafter, his father, Prashant Dey had also come there to save his uncle, whereupon Samsuddin Mian @ Sama caused injury to him as well. Samsuddin Mian @ Sama took Rs. 2,000/- from the galla (money box) and threw a tin of refined oil and also broke the *Chulha* (earthen stove).

In his cross examination, he stated that when he reached the shop of his uncle, he found his uncle lying there in injured condition. He further stated that while attempting to catch hold of Samsuddin Mian @ Sama and extricate his uncle from him, both he and his father sustained injuries. He also stated that his uncle had told that Rs. 2,200/- had been stolen.

17. P.W.-3, Harihar Mandal, is an employee of the informant. He has deposed that, at the time of incident, he had gone to ease himself and upon his return, he saw knife injuries on the thigh and head of the informant. When he enquired from the informant about the incident, the informant told him that the accused had caused the injuries with a knife. He had also seen Suman Kumar Dey in an injured condition.

In his cross-examination, he has stated that no incident had taken place in his presence.

18. P.W.-4, Suresh Mandal has also seen injury on the person of Sushant Dey, Prashant Dey and Suman Dey while he was returning to his home after attending a feast and they informed him that Samsuddin Mian @ Sama had caused injury with a knife.

19. P.W.-7, Dr. Arun Kumar Gupta is the doctor. He has examined P.W.-1 Suman Kr. Dey, P.W.-2 Prashant Kr. Dey and P.W.-6 Sushant Kumar Dey. In his deposition, he stated that he examined P.W.-6 Sushant Kumar Dey and found penetrated wound over his right thigh and the size of the wound was 1/2" wide and 1" deep. Edges of the wound were sharp and he had also having abrasion over left forehead of size 1/2" x 1/2". He opined that the wound was caused by sharp-cutting weapon and abrasion by hard blunt substance and the nature of injury was simple. He further stated that he had prepared the injury report having his signature at point-A, which has been marked as Ext. PW-7/C.

20. P.W.-7, the Doctor has further stated that he has examined P.W.-2 Prashant Kr. Dey and noticed swelling over palm in between his thumb and the first finger. He had

advised X-ray and the patient got X-ray done and brought the X-ray plate. The X-ray plate was revealing fracture of fifth metacarpal bone, which has been exhibited as Mark-A. He further opined that injury appears to be caused by hard and blunt substance and was grievous in nature and stated that he had prepared the injury report having his signature at point-A, which has been marked as Ext. PW-7/B.

21. He further stated that he has also examined P.W.-1 Suman Kr. Dey and found lacerated wound on middle finger of his left hand and the size of wound was 1" x 1/2" x skin deep and also lacerated wound having abrasion over right wrist and over right elbow. He further opined that the injury appears to be caused by hard and blunt substance and the nature of injury was simple and stated that he had prepared the injury report having his signature at point-A, which has been marked as Ext. PW-7/A.

In his cross-examination, the doctor has stated that all the injured were treated as outdoor patient and were not admitted as indoor patient and no injury on the person of any injured was sufficient to cause death in ordinary course, as none of the injury was dangerous to life. He has also stated that abrasion can be sustained by nails scratch and by rubbing against rough surface and lacerated wound can be sustained by fall also.

22. It transpires from the testimony of the informant, Sushant Dey (P.W.-6), that on 25.06.2011 at about 07:30 P.M. in the evening, the accused Samsuddin Mian @ Sama came to the informant's shop and abused him. Earlier, on the same day at the noon, he had breakfast worth Rs. 22/- from informant's shop but refused to make payment and, after extending threats, left the shop. Thereafter, in the

evening, the appellant/convict caught hold of the informant's wrist and when the informant resisted, the accused assaulted him with a knife, causing injuries on his thigh above the knee and thereafter delivering another knife blow on his head. Upon the informant raising an alarm, his brother, Prashant Dey and nephew Suman Kumar Dey, who had shop nearby, arrived at the spot to rescue him. They were also assaulted by the accused as a result of which Prashant sustained injuries on his right palm while Suman sustained injuries on his finger and elbow. Moreover, it is also stated that the accused had taken money from the galla (money box).

23. However, Suman Kumar Dey (P.W.-1), in his testimony has stated that upon going to the shop of his uncle, Sushant Kumar Dey (P.W.-6), he saw the accused Samsuddin Mian @ Sama assaulting his uncle and inflicting a knife blow on his leg, as a result of which bleeding started. When this witness intervened to rescue his uncle, the accused also assaulted him, inflicting a knife blow on the elbow of his right hand and another on the finger of his left hand, thereby causing injuries to him as well. However, in cross-examination, this witness stated that when he reached the shop of his uncle, he found his uncle lying in an injured condition. He further stated that while he was attempting to apprehend the accused Samsuddin Mian @ Sama and extricate his uncle from his clutches, both he and his father sustained injuries.

24. Prashant Dey (P.W.-2), is the brother of the informant who has deposed in consonance with testimony of P.W.-6 in his examination-in-chief. However, in his cross-examination, he has stated that when he reached at the

place of occurrence, he found blood oozing from the person of his brother as well as from his son who sustained injuries to his knee and hand. P.W.-3 has also stated that he saw the knife injuries on the thigh and head of P.W.-6. P.W.-4 has also seen injury on the person of Sushant Dey (P.W.-6). Despite certain contradictions in the testimony of witnesses, it can safely be inferred that P.W.-1 and P.W.-2 sustained injuries at the hands of the appellant/convict while they were attempting to apprehend him.

25. The testimony of P.W.-6 further finds corroboration from the evidence of P.W.-7, the doctor, who has proved the injury report of P.W.-6, as Exhibit- P.W.-7/C and injury reports of P.W.-1 and P.W.-2 as Exhibit- P.W.-7/B and P.W.-7/A, respectively.

26. The I.O in the present case has not been examined and the knife which was the weapon of offence has admittedly not been recovered. However non-recovery of the weapon by itself, is not at all fatal to the prosecution case. At the same time, owing to non-recovery of weapon, its dimension including the length of the blade, cannot be ascertained. P.W.-7, the doctor, has stated that P.W.-6 had sustained the injury where the size of his wound measuring 1/2" wide and 1" deep and he had also having abrasion over left forehead of size 1/2" x 1/2" and the size of wound of P.W.-1 was 1" x 1/2" x skin deep and also lacerated wound having abrasion over right wrist and over right elbow and this witness has further opined that the nature of injuries were simple and P.W.-2 had sustained injury of grievous nature as his fifth metacarpal bone got fractured and the above injured witnesses got injury by hard and blunt substance. Moreover, the Doctor has also opined that no

injury was sufficient to cause death in ordinary course. Therefore, the nature of the injuries, dimension and depth coupled with the medical opinion, do not suggest the use of long bladed weapon.

27. It is apposite to mention here that in order to sustain a conviction under Section 307 of IPC, the prosecution must establish that the act was done with such intention or knowledge that if death had been caused, the offence would amount to murder. The presence of intention or knowledge is *sine qua non*. When assessing whether an offence committed falls under the provision of Section 307 of IPC, the intention to commit the offence can be gathered from attending circumstances such as the nature of the weapon, the seat of injury, the severity of the blow, and the surrounding circumstances, as such, it is the intention or knowledge with which the act was committed which is to be considered. The ingredients of the Section are satisfied if the prosecution is able to prove the intent and for its execution, commission of some overt acts. The Hon'ble Supreme Court, in the case of ***Sivamani v. State*** *reported in* ***2023 SCC OnLine SC 1581*** has discussed the law prevailing around Section 307 of IPC in the following manner:—

> *"9. In State of Madhya Pradesh v. Saleem, (2005) 5 SCC 554, the Court held that to sustain a conviction under Section 307, IPC, it was not necessary that a bodily injury capable of resulting in death should have been inflicted. As such, non-conviction under Section 307, IPC on the premise only that simple injury was inflicted does not follow as a matter of course. In the same judgment, it was pointed out that '…The court has to see whether the act, irrespective of its result, was done with the intention or knowledge and under circumstances mentioned in the section.' The position that because a fatal injury was not sustained alone does not dislodge Section 307, IPC conviction has been reiterated in Jage Ram v. State of Haryana, (2015) 11 SCC 366 and State of Madhya Pradesh v. Kanha, (2019) 3 SCC 605. Yet, in Jage Ram (supra) and Kanha (supra), it was observed that while grievous or life-threatening injury was not necessary to maintain a conviction under Section 307, IPC, 'The intention of the accused can be ascertained from the actual injury, if any, as well as from surrounding circumstances. Among other things, the nature of the weapon used and the severity of the blows inflicted can be considered to infer intent."*

28. Considering the above legal proposition and the evidence discussed in the preceding paragraphs, this Court is of the considered view that the act of the appellant/convict arose out of a quarrel and that, during the said scuffle, the appellant/convict did inflict a knife blow upon P.W.-6 (informant). P.W.-1 and P.W.-2 also sustained injuries while intervening and getting hold of the appellant/convict. As opined by the P.W.-7 (doctor) the injuries sustained to the P.W.-6 and P.W.-1 were simple in nature, whereas, P.W.-2 sustained a fracture of the metacarpal bone of his hand, which was grievous in nature. It has also come from the mouth of P.W.-6 (informant/injured) that he and the appellant/convict were known to each other and there was no previous enmity between them. In the aforesaid circumstances, it cannot, by any stretch of imagination, be said that the appellant/convict had any premeditated design or intention or knowledge to cause death of the informant (P.W.-6) or the other injured persons.

29. On the overall facts and circumstances of the case, this Court is of considered view that, though the appellant/convict had caused injuries by knife to the injured persons, the requisite intention or knowledge to cause death, as contemplated under Section 307 of IPC, is not established beyond reasonable doubt.

30. As per opinion of the doctor (P.W.-7), the injuries sustained by P.W.-1 & P.W.-6 were simple in nature. However, it stands established for the evidence on record that such injuries were caused by means of a knife. Accordingly, the ingredients of an offence punishable under Section 324 of IPC are made out.

31. So far as the injury sustained by P.W.-2 is concerned, P.W.-7, the doctor, stated that he noticed swelling over the palm, between thumb and the first finger and the X-ray examination revealed a fracture of the fifth metacarpal bone. P.W.-2 has also stated his testimony that the injury was caused by knife. Needless to say, a fracture may also be caused by a knife if the injury is inflicted with its blunt part. In view of the fracture having been detected and the doctor having opined the injury to be grievous in nature, the ingredients of an offence punishable under Section 326 of IPC are made out.

32. Accordingly, conviction of the appellant/convict under Section 307 of IPC is altered to one under Sections 324 and 326 of IPC, in respect of the injuries caused to the respective inured persons.

33. As far as the offence punishable under Section 379 of IPC is concerned, there is inconsistency in the evidence of P.W.-1 and P.W.-6 regarding the amount allegedly taken by the appellant/convict. Even if the matter is examined from another perspective, the allegation appears improbable. After the informant (P.W-6) had sustained the injury caused by the appellant/convict, his brother (P.W.-2) and nephew (P.W.-1) were present at the shop and naturally, other persons also gathered there. In such circumstances, there was hardly an opportunity for the appellant/convict to take money from the galla (cash box). In these circumstances, the possibility of an embellishment or discrepancy regarding the alleged theft of money cannot be ruled out. Consequently, the appellant/accused is entitled to the benefit of doubt in respect of the charge under Section 379 of IPC.

34. Resultantly, the appellant/convict is found guilty under Sections 324 and 326 of IPC. Record reveal that appellant/convict has remained in judicial custody for about four months, out of the sentence imposed by the learned trial court. Since, the incident pertains to the year 2011 and the appellant/convict is facing the rigors of litigation for about fifteen years, this Court is of view that ends of justice would be met, if sentence awarded to the appellant/convict is modified to the period of sentence already undergone. Therefore, the impugned judgment is varied only to the extent that the conviction of the appellant stands modified to that under Sections 324 and 326 of IPC and the sentence imposed is also reduced to the period already undergone, however, the fine imposed is maintained.

35. Consequently, the judgment of conviction dated 10.01.2017 and order of sentence dated 12.01.2017 passed by the learned 2nd Additional Sessions Judge-cum-Fast Track Court (Rape Cases), Deoghar in Sessions Trial No. 258 of 2011 are, hereby, modified to the above extent.

36. The instant criminal appeal being, Criminal Appeal (S.J.) No. 192 of 2017 is, hereby, partly allowed.

37. Since, the appellant is on bail, he is discharged from the liability of his bail bonds.

38. Let the trial court record be sent back to the court concerned forthwith.

39. Pending I.A., if any, stands disposed of.

(Arun Kumar Rai, J.)

Jharkhand High Court, at Ranchi
Rajnish /- N.A.F.R.
Dated: 21/09/2026

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